

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re: FAIRFIELD SENTRY LIMITED, et al., Debtor in Foreign Proceedings.	Chapter 15 Case Case No. 10-13164 (CGM) Jointly Administered
FAIRFIELD SENTRY LTD. (IN LIQUIDATION), et al., Plaintiffs, v. THEODOOR GGC AMSTERDAM, et al., Defendants.	Adv. Pro. No. 10-03496 (CGM) Administratively Consolidated
FAIRFIELD SENTRY LTD. (IN LIQUIDATION), et al., Plaintiffs, v. HSBC SECURITIES SERVICES (LUXEMBOURG) S.A., et al., Defendants.	Adv. Pro. No. 10-03630 (CGM)
FAIRFIELD SENTRY LTD. (IN LIQUIDATION), et al., Plaintiffs, v. HSBC PRIVATE BANK (SUISSE) SA, et al., Defendants.	Adv. Pro. No. 10-03633 (CGM)

FAIRFIELD SENTRY LTD. (IN
LIQUIDATION), et al.,

Plaintiffs,

v.

ZURICH CAPITAL MARKETS CO., et al.,

Defendants.

Adv. Pro. No. 10-03634 (CGM)

**HSBC DEFENDANTS' AND LIQUIDATORS' FED. R. CIV. P. 26(F) REPORT
AND SCHEDULING ORDER**

In accordance with Federal Rule of Civil Procedure 26(f) and Federal Rule of Bankruptcy Procedure 7026, counsel for the Joint Liquidators and Foreign Representatives (the “Liquidators”) of Fairfield Sentry Limited (In Liquidation) (“Sentry”), Fairfield Sigma Limited (In Liquidation) (“Sigma”), and Fairfield Lambda Limited (In Liquidation) (“Lambda” and, together with Sentry and Sigma, the “Funds”) and counsel for HSBC Private Bank (Suisse) S.A. (“PBRs”), HSBC Securities Services (Luxembourg) S.A. (“HSSL”), and HSBC Bank USA, N.A. (“HBUS,” and together with PBRs and HSSL, the “HSBC Defendants”) met on August 13, 2021 and exchanged communications thereafter.¹ The HSBC Defendants and the Liquidators (together, the “Parties”) submit this Report as required under the Rules. This Report and the accompanying Proposed Order

¹ For the avoidance of doubt, this Rule 26(f) report applies only to the HSBC Defendants. The Liquidators first requested a Rule 26(f) conference from Cleary Gottlieb on behalf of all Defendants on August 6, 2021, following the Court’s August 5, 2021 orders lifting the stay in the administratively consolidated U.S. Redeemer Actions. The undersigned counsel at Cleary Gottlieb informed the Liquidators that they were not authorized to meet and confer, or negotiate, on behalf of defendants other than the HSBC Defendants. The Liquidators have advised the HSBC Defendants that they have followed up individually with counsel for the other represented defendants on August 17, 2021 and August 24, 2021 to schedule separate Rule 26(f) conferences with respect to those defendants.

are without prejudice to any party's claims or defenses, including defenses based on lack of personal jurisdiction.

I. FACT DISCOVERY

1. **Initial Disclosures:** The Parties shall exchange their initial disclosures under Federal Rule of Civil Procedure 26(a)(1)(A) on or before Monday, September 13, 2021.

2. **Personal Jurisdiction:** PBRS and HSSL have asserted and will move to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(2) that they are not subject to personal jurisdiction in this case. The Liquidators will oppose that motion.

The Liquidators propose that jurisdictional discovery be permitted with respect to PBRS and HSSL to be completed by Monday, November 22, 2021. The Liquidators served discovery requests on PBRS and HSSL on August 17, 2021.

PBRS and HSSL oppose jurisdictional discovery on the basis that the Liquidators have not pled a *prima facie* case with respect to personal jurisdiction. PBRS and HSSL also oppose merits discovery prior to the Court's resolution of their motion to dismiss for lack of personal jurisdiction. PBRS and HSSL will submit their responses and objections to the discovery served on them in accordance with the Federal Rules of Civil Procedure.

3. **Interrogatories and Requests for Admission:**

- a. Interrogatories (except contention interrogatories) shall be served by Monday, October 17, 2022.
- b. Contention interrogatories and requests for admission shall be served by Friday, December 16, 2022. Contention interrogatories shall be served no earlier than Monday, October 17, 2022.

4. **Depositions:** The number and length of depositions shall presumptively be as provided in the Federal Rules of Civil Procedure, subject to the right of any party to seek

modification thereof by mutual agreement or, for good cause, by order of the Court. The Parties shall meet and confer regarding the location and scheduling of depositions, taking into account the interests of the witness.

5. **Merits Document Discovery:** The Parties shall substantially complete document productions by Monday, May 16, 2022.

6. **Fact Discovery Cut-Off:** Fact discovery shall conclude by Friday, December 16, 2022.

II. EXPERT DISCOVERY

1. **Disclosure:** The deadline for the Parties to disclose the identity of any expert witness under Federal Rule of Civil Procedure 26(a)(2) is Tuesday, November 1, 2022. The Parties may designate rebuttal expert witnesses consistent with Federal Rule of Civil Procedure 26(a)(2)(D)(ii) by Wednesday, November 30, 2022.

2. **Expert Report:** The Parties shall submit a mutually agreed to proposed schedule for exchanging opening, rebuttal, and reply expert report and for completion of expert depositions (or, barring agreement, competing proposed Orders) for the Court's consideration no later than Wednesday, December 14, 2022.

3. **Expert Discovery Cut-Off:** All expert discovery shall be completed by Thursday, August 3, 2023.

III. FURTHER PROCEEDINGS AND OTHER MATTERS

1. The Parties shall submit a mutually agreed to proposed ESI Protocol and Confidentiality Order (or, barring agreement, competing proposed ESI Protocols and Confidentiality Orders) for the Court's consideration by Monday, September 20, 2021.

2. Any request for leave to amend pleadings or join parties shall be made by Friday, December 30, 2022.

3. The Parties shall jointly contact the Court on Friday, August 11, 2023 to schedule a status conference to discuss summary judgment and trial.

4. All motions, applications, and discovery disputes shall be governed by the Court's Chambers Rules.

5. The Parties may stipulate to the adjournment of any date without further approval of the Court, other than the dates for: (a) fact discovery cut-off, (b) expert discovery cut-off, and (c) proposing schedules for the exchange of expert reports and for seeking a further schedule from the Court as provided in paragraph III(4).

6. All applications to modify or extend the dates herein shall be made in a written application in accordance with the Court's Chambers Rules and shall be made no less than two business days prior to the expiration of the date sought to be extended.

Respectfully submitted,

Dated: August 27, 2021
New York, New York

/s/ David Elsberg

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– and –

BROWN RUDNICK LLP

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Dated: August 27, 2021
Washington, D.C.

/s/ Nowell D. Bamberger

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sentatives*

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**Dated: August 30, 2021
Poughkeepsie, New York**



/s/ Cecelia G. Morris

**Hon. Cecelia G. Morris
Chief U.S. Bankruptcy Judge**